

**TOWN OF DAVIE  
TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Bruce Taylor: 954-327-3741

**PREPARED BY:** Heidi G. Klemm

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** Townwide

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ENTER INTO AN AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR UTILITY SUBORDINATION OF CITY UTILITY INTERESTS ALONG STATE ROAD 862 (I-595); AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The Town of Davie has an interest in land located along State Road 862 (I-595) more specifically described as:

. Easement from Miles Austin Forman (03/28/91), as Trustee and Hamilton C. Forman as Trustee, OR

Book 21793, Page 0429

. Easement from R-One, Inc. (02/25/03), a Georgia Corporation, OR Book 34934, Page 435

These two parcels have been determined to be necessary for highway purposes. The Florida Department of Transportation (FDOT) is requesting the Town to enter into a Subordination of City Utility Interests Agreement. FDOT is willing to pay to have the Town's facilities relocated, if necessary, to prevent conflict between the facilities so that the benefits may be retained. The attached Subordination of City Utility Interests Agreement between the FDOT and the Town of Davie establishes the terms and conditions applicable to this request.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** Town Attorney reviewed and approved

**FISCAL IMPACT:** Yes

Has request been budgeted? n/a

**RECOMMENDATION(S):** Motion to approve resolution

**Attachment(s):** Resolution, Agreement

RESOLUTION NO.

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ENTER INTO AN AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR UTILITY SUBORDINATION OF CITY UTILITY INTERESTS ALONG STATE ROAD 862 (I-595); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council deems it to be in the best interest of the Town of Davie to approve the Subordination of City Utility Interests Agreement between the State of Florida Department of Transportation (FDOT) and the Town of Davie; and

WHEREAS, the Town Council wishes to authorize the appropriate Town officials to execute the Agreement, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The appropriate Town officials are hereby authorized to execute the agreement by and between FDOT and the Town of Davie, a copy of which is attached hereto.

SECTION 2. The Town of Davie does hereby agree to the terms and conditions set forth in the agreement.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_

MAYOR/COUNCILMEMBER  
ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

23-UTL.04-06/93

This instrument prepared  
under the direction of:  
Dawn Raduano, Esq.  
Legal Description prepared by:  
Louis Cefolia, P.S.M. (02-22-10)  
Document prepared by:  
Grace K. Abel (03-01-10)  
Department of Transportation  
3400 W. Commercial Boulevard  
Ft. Lauderdale, Florida 33309

Parcel No. 101.2  
Item/Segment No. 4275911  
Section No. N/A  
Managing District: 04  
S.R. No. 862 (I-595)  
County: Broward

#### SUBORDINATION OF CITY UTILITY INTERESTS

THIS AGREEMENT, entered into by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the FDOT, and the TOWN OF DAVIE, a municipal corporation of the State of Florida, hereinafter called the TOWN.

#### W I T N E S S E T H:

WHEREAS, the TOWN presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the TOWN to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the TOWN'S facilities relocated if necessary to prevent conflict between the facilities so that the benefits of each may be retained.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, TOWN and FDOT agree as follows:

TOWN subordinates to the interest of FDOT its successors and assigns, any and all of its interest in the lands as follows, viz:

(See attached Exhibit "A")

#### RECORDED

INSTRUMENT	DATE	FROM	TO	O.R.B. & PAGE
Easement	03/28/91	Miles Austin Forman, as Trustee and Hamilton C. Forman, as Trustee	TOWN OF DAVIE, a municipal corporation of the State of Florida	21793/ 0429

(Continue on the next page)

Easement	02-25-03	R-One, Inc., a Georgia corporation	TOWN OF DAVIE, a municipal corporation of the State of Florida	34934/ 435
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PROVIDED that the TOWN has the following rights:

1. The TOWN shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT'S current minimum standards for such facilities as required by the FDOT, Utility Accommodation Manual in the effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the TOWN or require the TOWN to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.
2. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.
3. The TOWN shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.
4. The TOWN agrees to repair any damage to FDOT facilities and to indemnify the FDOT against any loss or damage resulting from the TOWN exercising its rights outlined in Paragraphs 1 and 3 above.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written.

Signed, sealed and delivered  
in the presence of witnesses:

STATE OF FLORIDA DEPARTMENT  
OF TRANSPORTATION

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Name: JAMES A. WOLFE  
Title: District Secretary  
for District IV

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Attorney approved as to form:

\_\_\_\_\_  
Name: DAWN RADUANO

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 201\_\_\_\_\_, by JAMES A. WOLFE, District Secretary  
for District IV, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for the  
County and State last aforesaid.  
My Commission Expires: \_\_\_\_\_  
Serial No., if any: \_\_\_\_\_

IN WITNESS WHEREOF, the TOWN has caused these presents to be executed in its name by its Board of Commissioners acting by the Chairperson or Vice-Chairperson of said Board, the day and year aforesaid.

ATTEST: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its Town Clerk

\_\_\_\_\_  
TOWN OF DAVIE, a municipal  
corporation of the State  
of Florida

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its Mayor

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Attorney for the Town of Davie

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 201\_\_\_\_, by \_\_\_\_\_,  
Mayor, who is personally known to me or who has produced \_\_\_\_\_  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for the  
County and State last aforesaid.  
My Commission Expires: \_\_\_\_\_  
Serial No., if any: \_\_\_\_\_

UTL.05-06/93

This instrument prepared  
under the direction of:  
Dawn Raduano, Esq. \_\_\_\_\_  
Legal Description prepared by:  
Louis Cefolia, P.S.M. (02-22-10) \_\_\_\_\_  
Document prepared by:  
Grace K. Abel (03-01-10) \_\_\_\_\_  
Department of Transportation  
3400 W. Commercial Boulevard  
Ft. Lauderdale, Florida 33309

Parcel No. 101.2  
Item/Segment No. 4275911  
Section No. N/A  
Managing District: 04  
S.R. No. 862 (I-595)  
County: Broward

#### RESOLUTION

ON MOTION of Commissioner \_\_\_\_\_,  
seconded by Commissioner \_\_\_\_\_,  
the following Resolution was adopted:

WHEREAS, the State of Florida Department of Transportation purposes to  
construct or improve State Road No. 862 (I-595), Item/Segment No. 4275911,  
in Broward County, Florida; and

WHEREAS, it is necessary that certain easement rights now owned by the  
Town of Davie, be subordinated to the rights of the State of Florida  
Department of Transportation; and

WHEREAS, said subordination is in the best interest of the Town; and

WHEREAS, the State of Florida Department of Transportation has made  
application to said Town to execute and deliver to the State of Florida  
Department of Transportation a subordination of utility interest, or  
interests, in favor of the State of Florida Department of Transportation, and  
said request having been duly considered.

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of the  
Town of Davie, that the application of the State of Florida Department of  
Transportation for a subordination of utility interest, or interests, is for  
transportation purposes which are in the public or community interest and for  
public welfare; that a subordination of utility interest, or interests, in  
favor of the State of Florida Department of Transportation, in the  
Town of Davie, should be drawn and executed by this Board of Commissioners.  
Consideration shall be \$ \_\_\_\_\_.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be  
forwarded forthwith to the State of Florida Department of Transportation at  
3400 W. Commercial Boulevard, Ft. Lauderdale, Florida 33309.

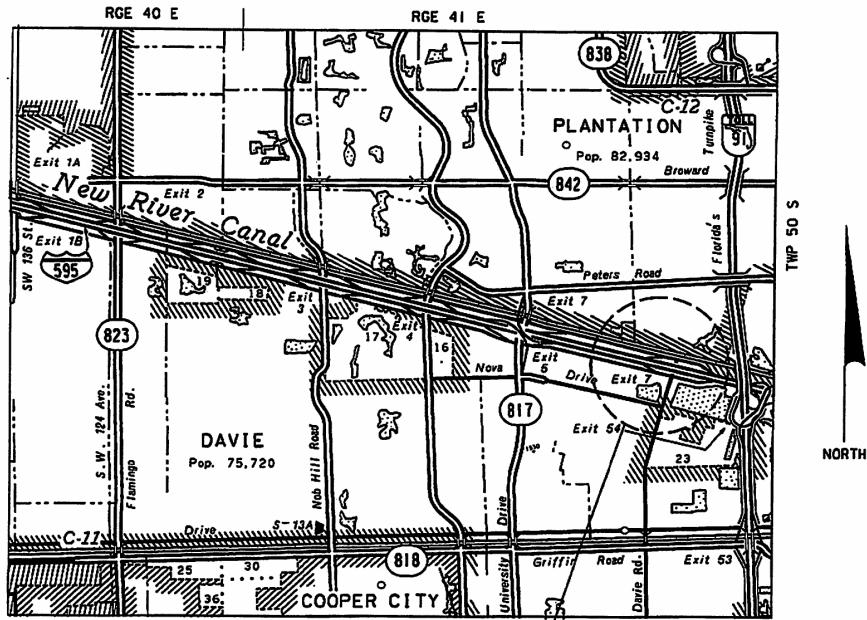
STATE OF FLORIDA

TOWN OF DAVIE

I HEREBY CERTIFY that the foregoing is a true copy of a Resolution  
adopted by the Board of Commissioners of the Town of Davie, at a meeting held  
on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Print Name:  
Clerk, Board of Commissioners  
Town of Davie, Florida

EXHIBIT "A"



LOCATION MAP

NOT TO SCALE

PARCEL LOCATION

**LEGEND:**

- |          |   |
|----------|---|
| Δ        | ▪ NON-VEHICULAR ACCESS LINE               |
| A.E.     | ▪ DELTA ANGLE                             |
| @        | ▪ ACCESS EASEMENT                         |
| C.B.     | ▪ BASELINE                                |
| COR.     | ▪ CHORD BEARING                           |
| D.C.R.   | ▪ CORNER                                  |
| EXIST.   | ▪ DADE COUNTY RECORDS                     |
| F.D.O.T. | ▪ EXISTING                                |
|          | ▪ FLORIDA DEPARTMENT<br>OF TRANSPORTATION |
| I.E.E.   | ▪ INGRESS/EGRESS EASEMENT                 |
| L        | ▪ LENGTH                                  |
| L/A      | ▪ LIMITED ACCESS                          |
| O.R.B.   | ▪ OFFICIAL RECORDS BOOK                   |
| (P)      | ▪ PLAT                                    |
| P.B.     | ▪ PLAT BOOK                               |
| PG.      | ▪ PAGE                                    |
| P.O.B.   | ▪ POINT OF BEGINNING                      |
| R        | ▪ RADIUS                                  |
| R/W      | ▪ RIGHT OF WAY                            |
| RGE.     | ▪ RANGE                                   |
| SEC.     | ▪ SECTION                                 |
| S.R.     | ▪ STATE ROAD                              |
| TWP.     | ▪ TOWNSHIP                                |
| U.E.     | ▪ UTILITY EASEMENT                        |

**GENERAL NOTES:**

1. BEARINGS SHOWN HEREON ARE BASED ON  
S 75°14'32" E ALONG THE SOUTH LINE OF  
PARCEL "B" AS SHOWN ON THE DIMAR PLAT,  
PLAT BOOK 146, PAGE 11  
BROWARD COUNTY RECORDS.
2. THIS SKETCH EXISTS SOLELY FOR THE  
PURPOSE OF ILLUSTRATING THE LEGAL  
DESCRIPTION TO WHICH IT IS ATTACHED.
3. ALL DIMENSIONS ARE CALCULATED UNLESS  
OTHERWISE NOTED.
4. PARCEL 101 - R-ONE1, A GEORGIA LIMITED  
LIABILITY COMPANY. AREA-2.513 ACRES

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION  
DISTRICT 4  
RIGHT OF WAY MAPPING  
3400 WEST COMMERCIAL BLVD.  
FT. LAUDERDALE, FL 33309  
(954) 777-4551

			FLORIDA DEPARTMENT OF TRANSPORTATION									
			PARCEL SKETCH - NOT A SURVEY									
			STATE ROAD NO. 862 (1-595)								BROWARD COUNTY	
				BY	DATE	PREPARED BY:				DATA SOURCE:		
						F.D.O.T. DISTRICT 4				N/A		
			DRAWN	SANCHEZ	02/22/10							
			CHECKED	CEFOJIA	02/22/10	ITEM/SEG NO. 4275911				SECTION. N/A		
			REVISION	BY	DATE					SHEET 1 OF 4		

TIME: RWMAPPING/PARCEL SKETCH/4275911/RWPS101COV.dgn

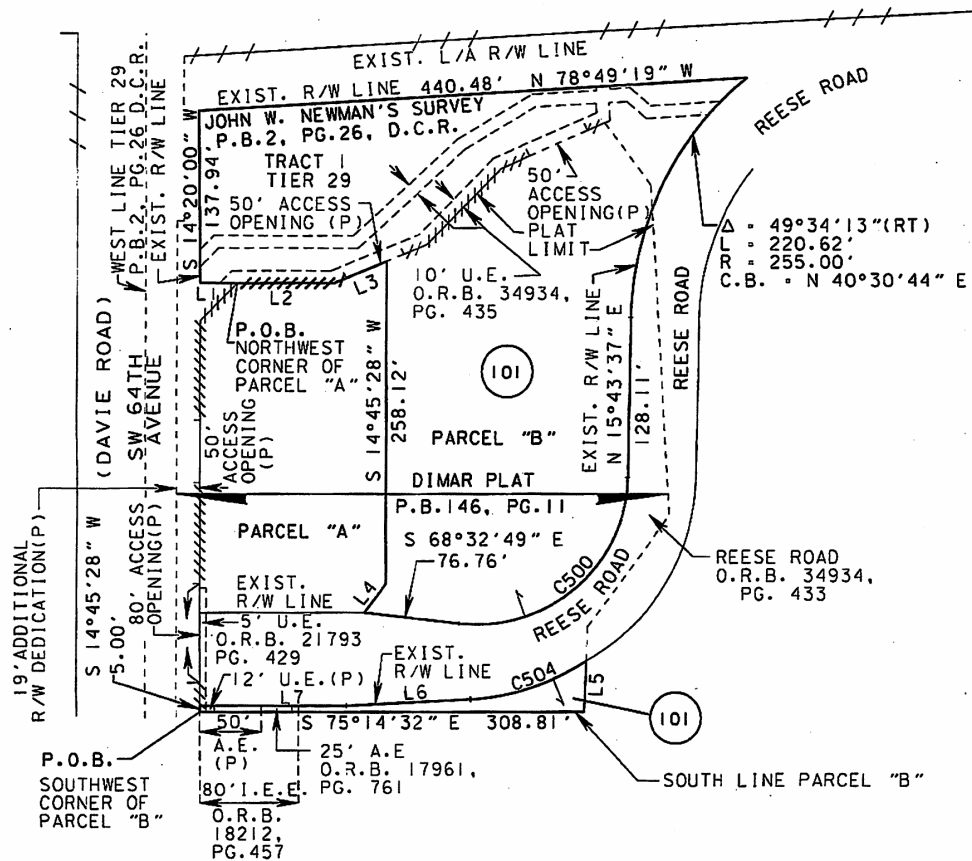
# EXHIBIT "A"

CURVE DATA				
CURVES	DELTA	LENGTH	RADIUS	CHORD BEARINGS
C500	95°43'34"	200.49'	120.00'	N 63°35'24" E
C504	31°18'15"	98.34'	180.00'	S 86°13'48" W

LINE DATA		
LINES	BEARINGS	DISTANCE
L1	S 75°14'32" E	30.00'
L2	S 75°14'32" E	78.40'
L3	N 82°03'40" E	45.67'
L4	S 51°39'15" W	28.66'
L5	N 17°16'33" E	40.90'
L6	N 78°07'04" W	99.67'
L7	N 75°14'32" W	118.97'

SEC. 14, TWP. 50S, RGE. 41E  
SCALE: 1" = 100'

S.R. 84



PARCEL 101 - R-ONEI, A GEORGIA LIMITED LIABILITY COMPANY.  
AREA - 2.513 ACRES

FLORIDA DEPARTMENT OF TRANSPORTATION				
PARCEL SKETCH - NOT A SURVEY				
STATE ROAD NO. 862 (I-595)			BROWARD COUNTY	
BY	DATE	PREPARED BY:	DATA SOURCE:	
DRAWN	SANCHEZ	02/22/10	F.D.O.T. DISTRICT 4	
REVISION	BY	DATE	ITEM/SEG.NO. 4275911	SECTION. N/A
CHECKED	CEFOIA	02/22/10	SHEET 2 OF 4	

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## EXHIBIT "A"

A portion of Tract 1, Tier 29, JOHN W. NEWMAN'S SURVEY, according to the plat thereof, as recorded in Plat Book 2, Page 26 of the Public Records of Miami-Dade County, Florida, together with a portion of Parcel "B", DIMAR PLAT, according to the plat thereof, as recorded in Plat Book 146, Page 11 of the Public Records of Broward County, Florida, lying in Section 14, Township 50 South, Range 41 East, Broward County, Florida, being more particularly described as follows:

BEGIN at the Northwest Corner of Parcel "A" of said DIMAR PLAT; thence South 75°14'32" East along the Northerly Line of said Parcel "A", a distance of 78.40 feet; thence North 82°03'40" East continuing along said Northerly Line, a distance of 45.67 feet to the Northeast Corner of said Parcel "A"; thence South 14°45'28" West along the Easterly Line of said Parcel "A", a distance of 258.12 feet; thence South 51°39'15" West continuing along said Easterly Line, a distance of 28.66 feet to the Southeast Corner of said Parcel "A", also being a point on the Northerly Existing Right of Way Line for Reese Road; thence South 68°32'49" East along said Northerly Existing Right of Way Line, a distance of 76.76 feet to a point on a curve concave Northwesterly, having a chord bearing of North 63°35'24" East; thence Northeasterly along said Northerly Existing Right of Way Line and said curve, having a radius of 120.00 feet, through a central angle of 95°43'34", an arc distance of 200.49 feet to the end of said curve; thence North 15°43'37" East along the Westerly Existing Right of Way Line for said Reese Road, a distance of 128.11 feet to a point on a curve concave Southeasterly, having a chord bearing of North 40°30'44" East; thence Northeasterly along said Westerly Existing Right of Way Line and said curve, having a radius of 255.00 feet, through a central angle of 49°34'13", an arc distance of 220.62 feet to a point on the Southerly Existing Right of Way Line for State Road 84 and the end of said curve; thence North 78°49'19" West along said Southerly Existing Right of Way Line, a distance of 440.48 feet to a point on the Easterly Existing Right of Way Line for Davie Road; thence South 14°20'00" West along said Easterly Existing Right of Way Line, a distance of 137.94 feet; thence South 75°14'32" East, a distance of 30.00 feet to the POINT OF BEGINNING.

Containing 2.439 acres, more or less.

AND

BEGIN at the Southwest Corner of Parcel "B" of said DIMAR PLAT; thence South 75°14'32" East along the Southerly Line of said Parcel "B", a distance of 308.81 feet to the Southeast Corner of said Parcel "B"; thence North 17°16'33" East along the Easterly Line of said Parcel "B", a distance of 40.90 feet to a point on the Southerly Existing Right of Way Line for Reese Road and a curve concave Northwesterly, having a chord bearing of South 86°13'48" West; thence Southwesterly along said Southerly Existing Right of Way Line and said curve, having a radius of 180.00 feet, through a central angle of 31°18'15", an arc distance of 98.34 feet to the end of said curve; thence North 78°07'04" West continuing along said Southerly Existing Right of Way Line, a distance of 99.67 feet; thence North 75°14'32" West along said Southerly Existing Right of Way Line, a distance of 118.97 feet to a point on the Westerly Line of said Parcel "B" and the Easterly Existing Right of Way Line for Davie Road; thence South 14°45'28" West along said Westerly Line and said Easterly Existing Right of Way Line, a distance of 5.00 feet to the POINT OF BEGINNING.

Containing 3,213 square feet, more or less.

All containing 2.513 acres, more or less.

FLORIDA DEPARTMENT OF TRANSPORTATION									
PARCEL SKETCH - NOT A SURVEY									
STATE ROAD NO. 862 (1-595)						BROWARD COUNTY			
		BY		DATE		PREPARED BY		DATA SOURCE	
		SANCHEZ		02/22/10		F.D.O.T. DISTRICT 4		N/A	
DRAWN		CEFO1A		02/22/10		ITEM/SEG. NO. 4275911		SECTION. N/A	
REVISION		BY		DATE		CHECKED		SHEET 3 OF 4	

T:\ms\RMWAPPING\PARCEL SKETCH\4275911\RMWSTOTLEGAL.dgn

# EXHIBIT "A"

I hereby certify that to the best of my knowledge and belief the attached legal description of Parcel No. 101, as shown on the Right of Way Parcel Sketch for State Road No. 862 (I-595), Item/Segment No. 4275911, is true, accurate and was prepared under my direction.

I further certify that said legal description is in compliance with the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors & Mappers pursuant to Section 472.027 Florida Statutes.

 2/25/10  
 Jeffrey D. Smith Date

Florida Surveyor and Mapper No. 4805  
 Florida Department of Transportation  
 3400 West Commercial Boulevard  
 Fort Lauderdale, Florida 33309

Not valid unless signed and sealed

FLORIDA DEPARTMENT OF TRANSPORTATION									
PARCEL SKETCH - NOT A SURVEY									
STATE ROAD NO. 862 (I-595)						BROWARD COUNTY			
DRAWN		BY		DATE		PREPARED BY:		DATA SOURCE:	
SANCHEZ		02/22/10		02/22/10		F.O.D.T. DISTRICT 4		N/A	
REVISION		BY		DATE		CHECKED		ITEM/SEG. NO. 4275911	
						CEFOIA		SECTION. N/A	
								SHEET 4 OF 4	

\\ms1r\RMAPPING\PARCEL SKETCH\4275911\RMPS:011FGAI.dgn